

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Michael Collins Iheme,

Civil No. 12-2269 (DWF/JJK)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Warden Michelle Smith,
Stillwater Prison MN,

Defendant.

This matter is before the Court upon Plaintiff Michael Collins Iheme's ("Plaintiff") objections (Doc. No. 16) to Magistrate Judge Jeffrey J. Keyes's November 5, 2013 Report and Recommendation (Doc. No. 5) insofar as it recommends that: (1) Plaintiff's motion to be excused from paying an initial partial filing fee be granted; (2) Plaintiff's application for leave to proceed *in forma pauperis* be denied; (3) this action be summarily dismissed pursuant to 28 U.S.C. § 1915A(b)(1); (4) Plaintiff be required to pay the unpaid balance of the Court filing fee, namely the full \$350, in accordance with 28 U.S.C. § 1915(b)(2); and (5) the dismissal of this action be counted as a "strike" against Plaintiff for purposes of 28 U.S.C. § 1915(g).

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of the parties, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

Having carefully reviewed the record, the Court concludes that Plaintiff's objections offer no basis for departure from the Report and Recommendation. Plaintiff appears to dispute the dismissal of his claims on the merits pursuant to 28 U.S.C. § 1915A(b)(1). The Court finds, as did Magistrate Judge Keyes, that Plaintiff has failed to plead a cognizable civil rights claim because his complaint does not allege sufficient facts, conduct, or personal involvement on the part of Defendant to support his claim of a constitutional violation. *See Ellis v. Norris*, 179 F.3d 1078, 1079 (8th Cir. 1999). Dismissal of his complaint is therefore proper.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Michael Collins Iheme's objections (Doc. No. [16]) to Magistrate Judge Jeffrey J. Keyes's November 5, 2012 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Jeffrey J. Keyes's November 5, 2012 Report and Recommendation (Doc. No. [5]) is **ADOPTED**.

3. Plaintiff's motion to be excused from paying an initial partial filing fee (Doc. No. [4]) is **GRANTED**.

4. Plaintiff's application for leave to proceed *in forma pauperis* (Doc. No. [2]) is **DENIED**.

5. This action is summarily **DISMISSED** pursuant to 28 U.S.C. § 1915A(b)(1).

6. Plaintiff is required to pay the unpaid balance of the Court filing fee, namely the full \$350, in accordance with 28 U.S.C. § 1915(b)(2).

7. The dismissal of this action is counted as a strike against Plaintiff for purposes of 28 U.S.C. § 1915(g).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 6, 2013

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge